

JONES & DYER
A Professional Corporation
1800 J Street
Sacramento, California 95811
Telephone: (916) 552-5959
Fax: (916) 442-5959

MARK A. JONES, State Bar #96494
KRISTEN K. PRESTON, State Bar #125455

Attorneys for Defendants Jose Rossi and County of Napa

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT JONES,

Plaintiff,

vs.

NAPA POLICE DEPARTMENT, COUNTY OF
NAPA, CITY OF NAPA; MICHELLE JONES;
THOMAS TOLER, dba Toler Bail Bonds; JOSE
ROSSI; and DOES 1-100, individually and as
employees or agents of the City or County of Napa,

Defendants.

) NO. C 07 3054 JCS

) **SECOND AMENDED NOTICE OF**
) **MOTION AND MOTION TO**
) **DISMISS FOR FAILURE TO STATE**
) **A CLAIM UPON WHICH RELIEF**
) **CAN BE GRANTED OR,**
) **ALTERNATIVELY, FOR MORE**
) **DEFINITE STATEMENT**
) **(F.R.C.P. 12(b)(6) and 12(e).)**

) Date: September 12, 2008

) Time: 9:00 a.m.

) Courtroom 2, 17th Floor

) Hon. Judge Jeffrey S. White

TO PLAINTIFF, IN PRO PER:

PLEASE TAKE NOTICE that on September 12, 2008, at the hour of 9:00 a.m. in Courtroom 2, 17th Floor, of the above-entitled court, located at 450 Golden Gate Avenue, San Francisco, California 94102, defendants will move the court for an order dismissing the action pursuant to Federal Rule of Civil Procedure 12(b)(6) on the basis that plaintiff's complaint fails to state a claim upon which relief can be granted. . Alternatively, defendant moves this court for a more definite statement pursuant to Rule 12(e).

The motion will be based on this notice of motion and motion, the memorandum of points

NOTICE OF MOTION AND MOTION TO DISMISS AND FOR MORE DEFINITE STATEMENT

1 and authorities in support of the motion filed herewith and the pleadings and papers on file herein.

2 Dated: July 17, 2008

3 JONES & DYER

4
5 By: /s/ Mark A. Jones
6 MARK A. JONES
7 Attorneys for Defendants
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOTICE OF MOTION AND MOTION TO DISMISS AND FOR MORE DEFINITE STATEMENT

PROOF OF SERVICE BY MAIL

CCP Sections 1013a, 2015.5 and Rules of Court, Rule 2008

I am a citizen of the United States and a resident of the County of Sacramento. I am over the age of eighteen years and not a party to the within entitled action; my business address is 1800 J Street, Sacramento, California, 95814.

On this date, I served the foregoing documents described as follows: **NOTICE OF MOTION AND MOTION TO DISMISS** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

COUNSEL FOR PLAINTIFF:

Robert J. Jones, In Pro Per
2063 Main Street, Suite 222
Oakley, CA 94516-3302
(209) 204-5520

____ (BY FEDERAL EXPRESS) I caused such envelope to be delivered by hand to the offices of the addressee(s) via Federal Express.

 x (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the U.S. Mail at Sacramento, CA.

____ (BY PERSONAL SERVICE) I caused such envelope to be hand delivered to the above address.

____ (BY FAX) by transmitting by facsimile copying machine a true copy thereof to telephone number _____ known or represented to me to be the receiving telephone number for facsimile copy transmission of the parties/person/firms listed above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 17, 2008, at Sacramento, California.

/s/ Mary Alice Myers
MARY ALICE MYERS

NOTICE OF MOTION AND MOTION TO DISMISS AND FOR MORE DEFINITE STATEMENT